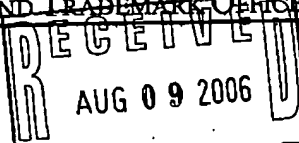




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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,428	10/14/2003	By <u>Mary Jo Mulligan-Kahoe</u>	DC-0230	1865

7590

08/02/2006

Licata & Tyrrell P.C.  
66 E. Main Street  
Marlton, NJ 08053

Docket System ✓  
Status Report ✓  
Docket Book         

EXAMINER

HUYNH, PHUONG N

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 08/02/2006

*Advisory Action*  
(Mpx & NDA) 9/27/06

Please find below and/or attached an Office communication concerning this application or proceeding.

# **Advisory Action** **Before the Filing of an Appeal Brief**

Application No.

10/686,428

Applicant(s)

MULLIGAN-KEHOE, MARY JO

Examiner

Phuong Huynh

Art Unit

1644

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 05 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## **NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

## **AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): The new matter rejection of claims 1-2 is hereby withdrawn.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1 and 2.  
Claim(s) withdrawn from consideration: None.

## **AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

## **REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

Continuation Sheet (PTO-303)

Application No. 10/686,428

Continuation of 11. does NOT place the application in condition for allowance because:

Claims 1-2 stand rejected under 35 U.S.C. 102(b) as being anticipated by Mulligan-Kehoe et al (J Biochemical Chemistry 276(11): 8588-8596, March 2001; PTO 892).

Applicants' arguments filed 7/5/06 have been fully considered but are not found persuasive.

Applicants' position is that Mulligan-Kehoe et al teach the production of a proteolytic cleavage product slightly greater than the 34-kDa molecular mass marker (page 8591, last three lines of col. 1, and the zymograph of Figure 5), which when more closely analyzed is actually approximately 36-38 kDa.

In response, it is noted that electrophoresis of any protein gives an approximate molecular weight of the protein due to glycosylation. Further, as evidence at page 26 of the specification, when single chain urokinase plasminogen, combining plasminogen and recombinant plasminogen activator protein (rPAI-1sub23) for a specific amount of time, angiostatin 1-3 was present as two distinct fragments between 34 and 50 kD and less pronounced near 28 kDa. The fragment between 34 and 50 kD is consistent with the reference 36-38 kD given the claimed method has the same method step and utilizes the same reaction products as that of Mulligan-Kehoe et al. The rejection is maintained for the reasons of record.

  
CHRISTINA CHAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

**FACSIMILE COVER SHEET**

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November 29, 2006

**TO: Examiner Huynh**

**GROUP: 1644**

**FAX NUMBER: (571) 273-0846**

**ATTORNEY DOCKET NO.: DC-0230**

**SERIAL NO. : 10/686,428**

**FILED: October 14, 2003**

**NUMBER OF PAGES: 4**  
(including this sheet)

**MESSAGE:** Per your request, attached is a copy of the Advisory Action for this abandoned application.

**URGENT! PLEASE DELIVER IMMEDIATELY UPON  
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If you have any questions, or did not receive the proper number of pages, or had trouble during transmission, please call 856-810-1515.

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